

STATE OF NORTH CAROLINA

COUNTY OF CHATHAM

ECO TIP WEST LLC,

Plaintiff,

v.

CHATHAM COUNTY, NORTH CAROLINA,

Defendant.

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

26 CVS _____

26CV000456-180

COMPLAINT

NOW COMES Plaintiff ECO TIP West LLC (“Plaintiff” or “Eco TIP”), and hereby alleges and sets forth the following Complaint against Defendant, Chatham County (“Defendant” or the “County”).

SUMMARY OF THE CASE

This case involves Chatham County’s decision to succumb to community pressure to adopt a twelve (12) month moratorium on data centers on February 11, 2026 (the “Moratorium”), without regard to the controlling statutes, case law, or Eco TIP’s property rights. The Moratorium, and the County’s refusal to recognize that Eco TIP’s existing data center project is exempt, has and continues to cause Eco TIP substantial financial and other losses. Eco TIP is, therefore, filing this action to enforce its rights, recover its damages and attorney’s fees, and force the County to adhere to well-established law.

Eco TIP is a land development company which owns a large industrial site known as Triangle Innovation West in Chatham County (“TIP West”). Eco TIP has spent years of its time, effort and over \$11 million to develop an approximately 750 megawatt data center, which would include, *inter alia*, cryptocurrency mining operations, at TIP West (the “Data Center Project”). TIP West is a part of the Chatham County Moncure Megasite, which is a specifically identified area which has been zoned by the County and designated by the State of North Carolina for heavy

industrial development, such as the Data Center Project. All utilities, including but not limited to electricity, water and sewer are adequate and available to serve the Data Center Project.

The Data Center Project is currently a use permitted by right under the Chatham County Zoning Ordinance in the Heavy Industrial district. This means there are no additional approvals required to develop and operate that use. Multiple County officials, including the County Manager, the County Attorney, and the County Planning Director have been aware of the Data Center Project and Eco TIP's efforts toward development since at least October 2025. At that time, these officials were approached and asked to confirm the by-right use of Eco Tip's property for use as a data center so Eco TIP could provide that confirmation to Duke Energy to reserve adequate electricity. The County promptly complied with the request by not only confirming the Data Center Project was a by-right use, but by also issuing Zoning Permit # PL-25-1750. This immediately conferred Eco TIP with statutory vested rights in the Data Center Project, which are protected property rights under the Due Process Clause of the United States Constitution and the Law of the Land Clause of the North Carolina Constitution.

Then, upon information and belief, at some point thereafter but before January 20, 2026, County officials met behind closed doors with data center opponents and decided to stop all development of data centers in the County for at least one year. This decision was made without input from or notice to Eco TIP. In fact, upon information and belief, Eco TIP was purposefully kept in the dark and excluded from all discussions.¹ The Moratorium was also unjustifiably rushed,

¹ Eco TIP made a public records request to the County on March 12, 2026, asking for, among other things, all written communications, including emails and text messages, between County officials and staff, and between the County and any other person related to the Moratorium and the Data Center Project. Despite multiple follow-up requests and a statutory duty to provide them as

and the process and enactment violated multiple statutory requirements. Because of these failings, the Moratorium is invalid.

Regardless, even assuming *arguendo* that the Moratorium was legally enacted, the Data Center Project was exempt from the Moratorium under N.C. Gen. Stat. § 160D-107(c). Eco TIP asked that the exemption be recognized by the County Board of Commissioners and explained the reasons why the Data Center Project is exempt at the February 11, 2026 public hearing on the Moratorium. The request was ignored. A subsequent letter to the County Attorney again asking that the exemption be recognized was summarily denied with no explanation or analysis.

Based on the foregoing, Eco TIP has no choice but to seek Court intervention, including its right to “Expedited Judicial Review” under N.C. Gen. Stat. § 160D-107(f). This Complaint is filed pursuant to, *inter alia*, N.C. Gen. Stat. §§ 160D-107, 160D-108, 143-755, 160D-601(d), 160D-1401, 160D-1403.1, controlling North Carolina and federal case law and the North Carolina and United States Constitutions. Eco TIP’s claims, which are alleged in more detail *infra*, include: 1) a challenge to the validity of the Moratorium; 2) a request for a declaration that the Moratorium violates the down-zoning provisions of N.C. Gen. Stat. § 160D-601; 3) a request for a declaration that Eco TIP has statutory and common law vested rights in the Data Center Project; 4) a declaration that, assuming *arguendo* the Moratorium is valid, the Data Center Project is exempt from the Moratorium; 5) a declaration that, assuming *arguendo* the Moratorium is valid, Eco TIP has permit choice rights to continue development of the Data Center Project, free from the provisions of the Moratorium; 6) the recovery of damages pursuant to 42 U.S.C. § 1983 based on

“promptly as possible,” as of this date, the County has still not provided these communications to Eco TIP. *See* N.C. Gen. Stat. § 132-6(a).

the County's violation of Eco TIP's substantive due process rights; and 7) an award of attorney's fees under N.C. Gen. Stat. § 6-21.7 and 42 U.S.C. § 1988.

PARTIES, JURISDICTION AND VENUE

1. Eco TIP is a North Carolina limited liability company with a registered office in Sanford, North Carolina.

2. Defendant Chatham County is a county organized and existing under and by virtue of the laws of the State of North Carolina and is vested with powers in accordance with the provisions of the North Carolina General Statutes. Defendant may be sued and held liable in this civil action.

3. This action arose in Chatham County, North Carolina, and the actions complained of occurred in Chatham County, North Carolina. Therefore, the Chatham County Superior Court has personal jurisdiction over Defendant.

4. This Court has subject matter jurisdiction over this lawsuit and the issues raised herein pursuant to N.C. Gen. Stat. §§ 1-253, 1-254, 160D-1401 and 160D-1403.1, and other applicable law.

5. Venue for this action is proper in the Superior Court of Chatham County pursuant to N.C. Gen. Stat. § 1-82.

6. Eco TIP is a "person" within the meaning of N.C. Gen. Stat. §§ 1-254 and 1-265 with vested property rights and other protected rights that are presently being affected by the County's unlawful conduct described herein.

7. Eco TIP has standing to file this action under N.C. Gen. Stat. § 1-254, N.C. Gen. Stat. Chapter 160D, N.C. Gen. Stat. § 143-755, and other applicable law.

FACTUAL ALLEGATIONS

I. Background and History of the Data Center Project.

8. Eco TIP is a land development and investment company involved in, among other things, industrial site preparation and obtaining entitlements in, among other places, Chatham County, North Carolina. Eco TIP is the owner and developer of TIP West, which is an advanced manufacturing and industrial park created to attract industrial developers to Chatham County. TIP West is over 400 acres in size and is zoned Heavy Industrial under the County Zoning Ordinance. The Data Center Project is a use permitted by right on the TIP West property and has been for many years. Utilities required for heavy industry are in place and available.

9. The specific property on which the Data Center Project will be located is near the intersection Pea Ridge Road and Old US 1; specifically, Chatham County Parcel Numbers 911755, 5814, 96331, 96338, 96332, 96333, 96334, 96335 and 5321 (the “Data Center Property”).

10. TIP West and the Data Center Property are also a part of the “Moncure Megasite” which is an area of Chatham County intended and designated for large-scale industrial, manufacturing and technology tenants. The Moncure Megasite is considered a premier site for economic growth in North Carolina, and as explained *infra* has been so designated by the State.

11. On June 18, 2018, the Chatham County Board of Commissioners (the “County Board”) rezoned the Data Center Property to Heavy Industrial – along with other Moncure Megasite parcels (the “2018 Rezoning”). **See Exhibit A.**

12. The purpose of the 2018 Rezoning was to help complete the requirements for the Moncure Megasite to qualify for the “North Carolina Certified Sites Program.” The 2018 Rezoning ordinance states: “This area has historically been looked at as the appropriate area for industrial

uses in Chatham County.” The area is “being readied for future industrial development,” which was a County Board priority.

13. The Chatham County Board adopted the statutorily required statement that the 2018 Rezoning was consistent with the Comprehensive Plan because it would “ensure future job creation in the County,” and because “[d]evelopment of the Moncure Megasite is not possible unless it is zoned for heavy industrial use.” The 2018 Rezoning was “critical to ‘developing and promoting’ the Moncure Megasite to the future employers....” The County Board of Commissioners also found 2018 Rezoning would decrease the tax burden on residential property owners, because of the increased property values large industrial development would bring to the County.

14. Following the 2018 Rezoning, TIP West officially became a part of the “North Carolina Certified Sites Program.” The Certified Sites Program provides a statewide inventory of industrial sites that have undergone a rigorous prequalification process to ensure they are ready for development. *See Exhibit B.* The certification is intended to encourage new developers to bring large industrial projects to Chatham County because the Moncure Megasite, including TIP West, is shovel ready for immediate intense industrial development.

15. Through the Rezoning and the Certified Sites Program designation, the State and the County earmarked the Data Center Property for large industrial development. The Data Center Property has industry-ready infrastructure, including water, sewer and electricity so it is equipped for development of the Data Center Project.

16. The Data Center Property is designated as an Employment Center pursuant to the County’s Future Land Use and Conservation Plan Map which is a component of the Chatham County Comprehensive Plan. One of the Comprehensive Plan’s policies intended to “[i]ncrease

employment opportunities across the County” is to “[c]ontinue to develop and promote . . . the Moncure megasite.” *See* Comprehensive Plan, Policy 3 pp. 54-55. The Small Area Plan, “Plan Moncure,” also stresses “the importance of continuing to develop and promote ‘megasites’ in the County, including the Moncure Megasite to advance ongoing job growth in the area.” *Id.* at p. 88. Plan Moncure specifically states this includes “TIP West” and, therefore, the Data Center Property. *Id.*

17. Eco TIP has made substantial expenditures and taken other significant steps toward development of the Data Center Project for at least four years. Prior to the enactment of the Moratorium on February 11, 2026, Eco TIP invested over \$11 million in the Data Center Project in reasonable and good faith reliance on the multiple development approvals and other permits issued by the County and the State, which are described in detail *infra*.

18. The Chatham County Economic Development Corporation (the “EDC”) is a non-profit corporation that leads business recruitment, retention, and economic growth in Chatham County. The EDC is appointed by the County Board of Commissioners, and the County Manager is a nonvoting member of the EDC. Eco TIP’s development and investment in the Data Center project were undertaken with the County EDC’s knowledge, support and encouragement.

19. As a significant industrial development, the Data Center Project will require a larger than average amount of electricity to operate. Duke Energy has been working with Eco TIP to ensure appropriate capacity to supply electrical power to the Data Center Project. Duke Energy conducted a large load study for the Data Center project in January 2025 to analyze, *inter alia*, its available grid capacity. The load study concluded that sufficient power is available for the Data Center Project, and Duke Energy is prepared to provide that service.

20. TriRiver Water is the water and sewer provider to the Data Center Property. TriRiver has been provided with information about the Data Center Project and its needs, and has confirmed in writing that adequate water and sewer are available to serve the Data Center Project.

21. TIP West also has a large network of transportation options available to it, including access by highway, rail, air or water. Enbridge Gas North Carolina provides natural gas to TIP West.

22. The undisputed facts are that TIP West is already equipped for the Data Center Project, and there is no need to delay development by a Moratorium or otherwise to answer this question.

II. The County's Zoning Interpretation/Zoning Permit Determining that the Data Center Project Is a Use Permitted by Right on the Data Center Property.

23. The Data Center Property has been zoned Heavy Industrial since 1969. The Heavy Industrial zoning designation was thereafter strengthened and modernized to attract and allow new large intense industrial uses by the approval of the 2018 Rezoning of the Moncure Megasite. There is, thus, no question that the Data Center Project has been a "by-right" use on the Data Center Property for almost 60 years. Eco TIP was aware of the Heavy Industrial zoning designation and relied on this and the State Certified Sites designation when it undertook development, started making expenditures and started obtaining development approvals and permits for the Data Center Project as early as in 2022.

24. As alleged *supra*, TIP West's large load study was completed in January 2025, and the results confirmed Duke's ability to provide power to the Data Center Project. Thereafter, the Data Center Project was placed into Duke's large load queue process. Duke has confirmed that power will be available for the Data Center Project between 2028 and 2030. Per its agreement with

Duke Energy, Eco TIP and not other Duke consumers will be responsible for the cost of Data Center Project's electricity.

25. On September 26, 2025, Eco TIP was contacted by Duke Energy and informed that it was updating its retail large load application process. The new process would not apply to previously filed applications, like that for the Data Center Project, but Duke was working to process those previously filed applications. Per Duke Energy, the Data Center Project would retain its place in the large load queue, but additional information was required. This included confirmation from Chatham County that the Data Center Property was properly zoned for the Data Center Project.

26. On or about October 27, 2025, Eco TIP engineer Mark Ashness ("Ashness") made a request to the Chatham County Planning Department for a zoning verification letter confirming that a data processing center was permitted by right on the Data Center Property. Under the County Zoning Ordinance, "Data processing, hosting and related services" is a by right use in the Heavy Industrial zoning district if public water and sewer are available. TriRiver Water is the current provider of public water and sewer to the Data Center Property.

27. Ashness submitted an official zoning verification request to the County on or about October 27, 2025. **See Exhibit C.** The request specifically asks for a written determination that the proposed use, *i.e.*, "the processing of data and data hosting, comparable to a modern data center," is permitted by right in the Heavy Industrial zoning district on the Data Center Property, under the classification "data processing, hosting and related services." The County was informed that the request was time-sensitive and a response was needed as soon as possible.

28. When a response was not immediately forthcoming, Eco TIP elevated the request to the County Attorney and the County Manager. Specifically, on October 28, 2025, Eco TIP

Manager Kirk Bradley called the County Manager, Bryan Thompson (the “County Manager”), and explained the Data Center Project, the request for a zoning compliance verification, and the need for an immediate response due to a Duke Energy deadline. The County Manager indicated he would send the request to County Attorney, Bob Hagemann. Based on his conversation with the County Manager, Bradley was optimistic that Eco TIP would hear back quickly from Hagemann.

29. On October 29, 2025, the following day, Eco TIP attorney Patrick Bradshaw sent the following email to County Attorney Hagemann at 11:42 a.m.:

Hi, Bob. I left you a voicemail a little while ago about my client’s purchaser’s need for a zoning verification letter for several parcels in the Heavy Industrial zoning district. The situation is even more urgent than I realized when I left the message for you. I mentioned that I would be out of the office between 11:30 and 1:30 today. If you are able to call back during that period, I would appreciate your calling my cell phone. . . .

The question has to do with use of parcels in the heavy industrial district that are served by TriRiver water and sewer for a data processing center. Purchaser is working to confirm availability of power from Duke Energy. Duke has a queue process, and if we don’t have a zoning verification letter by 5:30 pm today, we will lose our place in the queue.

The parcels in question are 0091175, 0005814, 0096331, 0096338, 0096332, 0096333, 0096334, 0096335, 0096336, 0096337, 0005321, currently owned by Eco TIP West LLC.

We would like to have a letter saying that use of the property for data processing, hosting, and related services is allowed by right. If the county cannot see its way clear to issue that letter today, we would try to work with a letter that says use of the property for data processing, hosting and related services is allowed by right or with a special use permit.

30. County Attorney Hagemann immediately forwarded Bradshaw’s email to County Planning Director Jason Sullivan (the “Planning Director”), as well as the County Manager.

31. The Planning Director then sent an email to Eco TIP attorney Bradshaw at 1:34 p.m. on October 29, 2025 stating that he had been forwarded Bradshaw’s email by Attorney

Hagemann, but the Planning Department was waiting for additional information from Eco TIP's engineer. Bradshaw was directed to the on-line portal and informed that the planner who would respond, Angie Plummer, would be leaving the office at 2:45 p.m. The Planning Director acknowledged the request was time sensitive.

32. Shortly thereafter, on October 29, 2025, the County issued "**Permit #: PL-25-1750**" entitled "Chatham County Planning Department Zoning Interpretation" (the "Zoning Permit"). *See Exhibit D.* The Zoning Permit specifically states that it is an "official zoning interpretation" for the Data Center Property and the proposed use is "data processing hosting and related services." The Zoning Permit also states that the proposed use is allowed with a special use permit (or "SUP") "unless connected to public water and sewer and then would be permitted 'by right.'"

33. Duke Energy was provided a copy of the Zoning Permit, but requested more information, specifically whether the Data Center Project needed an SUP or was a "by right" use.

34. Eco TIP immediately contacted the water and sewer provider TriRiver Water asking for confirmation that public water and sewer were available to serve the Data Center Project. This confirmation was provided in writing by TriRiver Water's Director of Engineering Jason Bertoncino, PE on October 30, 2025. *See Exhibit E.* This confirmation was promptly forwarded to the County, with a request for an update to the Zoning Permit.

35. On October 30, 2025, Planning Director Sullivan issued an "Addendum to Zoning Compliance Letter dated 1/29/2025," *i.e.*, Zoning Permit #: PL-25-1750. The Addendum provides as follows:

This letter serves as an addendum to the zoning compliance letter dated 10/29/2025 for the following parcels 911775, 5814, 96331, 96338, 96332, 96333, 96334, 96335 and 5321. These parcels are zoned Heavy Industrial and "Data processing, hosting, and related

services” are allowed under a special use permit, unless connected public water and service and then are allowed “by right”. Pursuant to a letter from TriRiver Water dated 10/30/2025 these properties can be served by public water and sewer, which means “Data processing, hosting, and related services” are allowed as a “by right” permitted use for these parcels.

See Exhibit F.

36. Therefore, no later than October 30, 2025, which was months before the call for a public hearing on the Moratorium, the County Manager, the County Attorney, and the County Planning Director had actual and direct knowledge that: 1) development of the Data Center Project was underway; 2) Eco TIP was the owner of the Data Center Property; 3) water and sewer were available for the Data Center Project; and 4) Eco TIP was in the queue for Duke Energy to supply electricity to the Data Center Project. The knowledge of these individuals was imputed to the County which was, thus, also aware Eco TIP’s Data Center Project was underway, had been issued the Zoning Permit confirming the by right use on the Data Center Property, and that the Data Center Project had adequate and available utilities.

37. The Zoning Permit, including the Addendum, is a “development permit” as that term is defined in N.C. Gen. Stat. § 160D-108 and § 143-755. The Zoning Permit, including the Addendum, is also a binding zoning determination, of which the County had actual knowledge no later than October 30, 2025, and was never appealed to the County Board of Adjustment by the County or any other person with standing within 30 days of the decision. *See, e.g.*, N.C. Gen. Stat. § 160D-405; *S.T. Wooten v. Town of Zebulon*, 210 N.C. App. 633, 711 S.E.2d 633 (2011). The Zoning Permit is, thus, final, binding and could be relied upon by Eco TIP to guide its future development actions.

III. The Moratorium.

A. The January 20, 2026 Board of Commissioners Meeting.

38. Prior to January 20, 2026, there had been no public discussion regarding a moratorium on data centers by the Chatham County Board of Commissioners. To the contrary, one of the primary economic development goals for Chatham County for 2026 was to increase industrial development in the County.

39. In addition to the Zoning Permit, prior to the adoption of the Moratorium, Eco TIP had also already obtained multiple other permits and development approvals from the County for the Data Center Project over a period of years without incident. And, during this time period, Eco TIP made substantial expenditures toward the development of the Data Center Project in good faith and reasonable reliance on these permits and approvals.

40. There was a regularly scheduled County Board of Commissioners meeting on January 20, 2026. As with every regular Board of Commissioners' meeting, one of the items on the agenda on January 20 was "Public Comment." Public Comment allows individuals to sign up and address the Board on any topic related to Chatham County business.

41. Unbeknownst to Eco TIP, upon information and belief, some or all the County Commissioners had communicated and/or met with each other behind closed doors and decided to impose a moratorium on data centers, including the Data Center Project before the January 20, 2026 meeting.

42. Upon information and belief, also before the January 20 meeting, some or all of the County Commissioners had communicated and/or met *sub rosa*, with multiple individuals who oppose data centers in the County. These data center opponents were urging the Commissioners to impose a data center moratorium. Upon information and belief, these opponents were not told

by the County, nor were they otherwise aware, of the Data Center Project and Eco TIP's vested and other protected property rights, to develop and operate at the Moncure Megasite.

43. Upon information and belief, during these private meetings, the County Commissioners made a plan to have these individuals speak in favor of the Moratorium and in opposition to data centers on January 20. In fact, upon information and belief, the County notified and recruited these opponents to speak at Public Comment in favor of a data center moratorium.

44. The video and transcript of the January 20, 2026 meeting confirm that County staff, including the County Manager and the County Attorney, had been given direction by one or more Commissioners to prepare a new item that would be added to the agenda at the January 20, 2026 meeting to discuss a moratorium on data centers. **See Exhibit G** (transcript) <https://chathamnc.granicus.com/player/clip/541> (video).

45. At the beginning of the regular County Commissioners' meeting on January 20, 2026, the Board voted to amend the agenda to add an item to discuss a moratorium on data centers.

46. The January 20, 2026 meeting video and transcript also indicate that County staff had already been instructed to start preparing a notice for a moratorium hearing and a draft of a moratorium ordinance. Upon information and belief, one of more of the County Commissioners asked staff to prepare the Moratorium item to add at the table on January 20, but to keep this item off the agenda and out of the public realm until that time.

47. Upon information and belief, the decision to add the moratorium item at the January 20 meeting, rather than to give normal advance notice, was to make sure Eco TIP was not aware of the item and so would not attend and participate. In fact, no interested data center stakeholders or proponents, including but not limited to Eco TIP, were given any notice this topic would be

discussed, and upon information and belief, were purposefully kept in the dark. Only those orchestrated to speak in favor of the Moratorium were given prior notice.

48. County Board Chair Amanda Robertson stated at the beginning of the January 20 meeting that the other Commissioners were “aware” that the agenda would be amended to add a discussion on a data center moratorium and that “everybody’s been notified.”

49. Significantly, simultaneous communication occurring among a majority of Board members to discuss County business outside a public meeting, even by email, or text message, would be a violation of the State’s Open Meetings Laws. Again, Eco TIP asked for these communications by a public records request, but the County has not yet provided them.

50. Chair Robertson further stated a moratorium was needed for the County to have protection for the people and the environment, “*before such a thing may come our way.*” (emphasis added). This indicated there was a decision to publicly ignore the Data Center Project, and to lead the public to believe there were no existing vested data center developments underway in the County.

51. Five members of the public spoke during Public Comment on January 20 and encouraged the Board of Commissioners to adopt a moratorium on data centers. Only four of the speakers were residents of Chatham County. There were no opponents because, upon information and belief, no one other than proponents were given notice that a moratorium would be discussed, nor that the Board had already determined to call a public hearing on the Moratorium as soon as legally possible at the January 20 meeting.

52. None of the individuals who spoke in support of the Moratorium had any expertise about data centers or the potential impacts to the County but expressed only generalized fears about

the use. The primary complaints were that data centers were large users of water and electricity and there may not be sufficient capacity in the County.

53. The January 20 Public Comment speakers were concerned about the “proliferation” of data centers in the County, although one speaker, Jean Ambrose, recognized that “data centers could locate in the Moncure Megasite,” but it would be a concern to allow them in rural parts of the County.

54. The Public Comment speakers did not indicate they knew there was a pending and approved Data Center Project nor that there had already been decisions by applicable utility providers that sufficient electricity and water are available. Nothing in the Public Comments indicated that the speakers would oppose the Data Center Project with allocated utilities and infrastructure if located at the Moncure Megasite.

55. One individual speaking at Public Comment, John Wagner, stated that he wanted to talk about “two things One is data centers - - *I will speak more about it at the next meeting* - - but we don’t need them.” This confirms that the opponents had already been told there would be a future public hearing on a data center moratorium, although Eco TIP was not even informed the Moratorium would be discussed on January 20, 2026.

56. Following the close of the Public Comment item, the County Board discussed the newly added data center moratorium agenda item. The Board Chair Robertson stated that there is concern about multiple data centers coming to the County and she commended members of the public for bringing this to the attention of the Commissioners because a moratorium is “necessary.”

57. The County Manager stated his appreciation to the County Board for telling staff in advance that the agenda would be amended, so they could prepare for the new item. He explained that data centers are currently allowed in the Heavy Industrial district by right with

public water and sewer. The County Manager explained a moratorium would be needed to update the ordinance to add development standards, which would then remove the data center use from the by right category in the Heavy Industrial district.

58. The next regular Board meeting after January 20, 2026 would be February 16; however, the Board wanted to meet sooner so the Moratorium could be “accelerated.” The public hearing on the Moratorium was set for February 11 because that was the earliest date that would meet the notice requirements and all the Commissioners could attend. The County Board was so anxious to stop the data center use that it could not wait five additional days for their next regular meeting, when the public would expect the Commissioners to meet.

59. The County Manager originally suggested a moratorium of six to eight months, but this was ultimately extended to one year by consensus of the Commissioners. Some wanted longer. It was clear from the Commissioners’ discussion that the purpose of the Moratorium was to stop the development of data centers for as long as they could - without any consideration of the actual time it would take to draft new development regulations.

60. The Commissioners inquired whether there were any legal concerns they should be aware of if a moratorium was passed. The County Manager stated not unless there were “active applications or projects that could be impacted in some way,” but “[w]e don’t have that presently.” This statement was incorrect because the County Manager knew about the Data Center Project, that it had been issued the Zoning Permit, and that adequate utilities were available.

61. The County Attorney was also asked if any legal challenges could be made.² The County Attorney responded that there could be challenges, “but the general statutes do allow these moratoriums, and [the County Manager] has pointed out the several factors that need to be followed, and so long as the County follows those, the County can proceed in this way.” Thus, the County Attorney also failed to mention the Data Center Project and did not explain the required exemptions that would need to be recognized under N.C. Gen. Stat. § 160D-107 for projects such as the Data Center Project.

62. The January 20, 2026 meeting video and transcript are clear that the decision to adopt the Moratorium had been made before that meeting and before the public hearing was called.

B. The February 11, 2026 Public Hearing on The Moratorium.

63. The first speaker at the February 11 public hearing on the Moratorium was County Planner II, Hunter Glenn (“Glenn”). Glenn explained that a moratorium is a “legal halt” to development to allow the County to change the rules and regulations for data centers. Essentially, the purpose is to require currently permitted by-right data centers to wait - and do nothing for a year - and then force compliance with new yet unknown more stringent rules which will likely prohibit their projects when the Moratorium expires.

64. N.C. Gen. Stat. § 160D-107(d) is entitled “Moratoria” and, *inter alia*, sets forth the four required findings for the adoption of a lawful moratorium. Glenn went through these statutory findings with the County Board with a PowerPoint presentation setting forth why they could

² At the time the Zoning Permit was approved, the County Attorney was Bob Hagemann. The County Attorney at the time of the public hearing was Emily Meeker. Both Hagemann and Meeker are partners at the law firm of Poyner Spruill in Raleigh.

allegedly be met. **See Exhibit H (transcript); <https://chathamnc.granicus.com/player/clip/545>**
(video).

65. The first finding under § 160D-107(d)(1) requires the County Board to adopt:

A statement of the problems or conditions necessitating the moratorium and what courses of action, alternative to a moratorium, were considered by the local government and why those alternative courses of action were not deemed adequate.

66. The first basis for the finding that Glenn described as “Necessity,” was that there would be a considerable amount of “water and electricity usage.” Glenn’s specific statement to the Board was that data centers use “lots of water” and “lots of power.”

67. The PowerPoint slide for Finding 1 also stated there could be unidentified “[e]nvironment impacts” and “[n]oise concerns.” No facts were presented at the public hearing to support these speculative statements. **See Exhibit I.**

68. Glenn told the County Board that the County would use the Moratorium period to “develop land use regulations that would be required to mitigate some of the negative impacts” associated with data centers. He did, not, however, have any idea what those regulations would be, and it was apparent that the County staff had no knowledge whatsoever about how data centers operate, or what the County could or might do to regulate them. Based on the limited documents provided to Eco TIP through a public records request, it appears the Planning Department’s main source of information was internet research – with no substantiation that the information they found was accurate.

69. Glenn told the Board it could “potentially regulate the power source.” However, the County has no authority to regulate the use of water, sewer or electricity or how much or who is entitled to those utilities. Duke Energy and the North Carolina Utilities Commission have

exclusive jurisdiction over electricity. TriRiver Water is the sole provider and decision maker with respect to water and sewer. Prohibiting a data center based on these factors would be beyond the County's power. *See, e.g. Browning Ferris Industries v. Wake County*, 905 F. Supp. 312 (E.D.N.C. 1995)(county could not stop permitted use by controlling its access to water).

70. In addition, with respect to the first finding under N.C. Gen. Stat. § 160D-107(d)(1), no alternatives "other" than a moratorium were considered or discussed by the County Board. The Moratorium's attempt at meeting this standard is found in Section 2 and states only that: "The County has looked at alternative solutions to a moratorium but found none." This is meaningless and unsubstantiated. Regardless, there are in fact, many other alternatives that could have been implemented in a much shorter time period, such as changing the approval process for data centers, while at the same time, recognizing Eco TIP's protected property rights.

71. The remaining findings under § 160D-107(d)(2), (3) and (4) are as follows:

- (2) A statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems or conditions leading to imposition of the moratorium.
- (3) A date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium.
- (4) A statement of the actions, and the schedule for those actions, proposed to be taken by the local government during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.

72. Glenn told the Board the second finding required the Board was to determine "what this moratorium is subject to." He stated that the Moratorium would be for any development approval for a data center, data processing facility or anything else "that would do something that's related to a data center." The adopted Moratorium, however, did not do what Glenn suggested, but instead erroneously imposed a moratorium on "*development regulation[s]*" instead of

“*development approvals.*” (emphasis added). This violates N.C. Gen. Stat. § 160D-107(a) (“local governments may adopt temporary moratoria on any development approvals ...”).

73. As to the third finding, the County Board had previously decided on or before January 20, 2026, that the duration of the Moratorium would be at least one year. At the February 11, 2026 public hearing, Glenn explained that the twelve months was for “continued research on studying the impacts of data centers and data processing, cryptocurrency mining – everything like that.”

74. Upon information and belief, this unwarranted and unreasonably long Moratorium was to allow the County to drag out the Moratorium to allow for a text amendment process that could be done in less than half the time proposed to stop the Data Center Project. In fact, it has become clear since the Moratorium was adopted, based on recent meetings of the County Planning Board, that the County has no plan and no idea what data centers even are, or how to regulate them, and cannot even agree among themselves as to where to start.

75. Although there was little to no discussion by the County Board on this standard at the February 11 public hearing, Glenn did present a PowerPoint slide on the fourth finding which states:, *i.e.*, “a statement of the actions [and] the schedule for the actions” that the County proposes to take “to address the problems or conditions leading to imposition of the moratorium.” This slide indicates that County staff will take four months to “study the impacts” of data centers and then to “develop the land use regulations required to mitigate the negative impacts associated with land uses.”

76. Glenn then told the Board it will take six to eight months “for the legislative text amendment process.” Under state law and the County Zoning Ordinance, this process can easily

and legally be accomplished in less than 90 days, yet there was no explanation as to why this extended period was necessary.

77. Following the staff presentation, the public hearing was opened. Each speaker was given three minutes. There were four speakers opposed to the Moratorium and three who provided information but did not take a position. There were twelve speakers opposed to data centers and in favor of the Moratorium.

78. The first speaker against the Moratorium was Eco TIP Manager Kirk Bradley. Bradley explained to the Board that the Moratorium was unnecessary because there are other options to regulate data centers, and regardless, six months would be enough time to consider new rules. Bradley also informed the Board of Eco TIP's substantial expenditures of over \$11.3 million to obtain permits and clear and prepare the Data Center Property for the Data Center Project. Bradley expressly stated that this would make Triangle Innovation Point West "exempt from any proposed moratorium and changes to the [Zoning Ordinance]."

79. Eco TIP Attorney Patrick Bradshaw also spoke against the Moratorium on behalf of Eco TIP. Bradshaw informed the Board that: 1) TIP West is zoned Heavy Commercial and the Data Center Project is a by right use which the County has confirmed in writing; 2) the Moncure Megasite has a history of industrial uses and already has proximity to water, sewer and electricity; 3) Eco TIP is exempt from the Moratorium under N.C. Gen. Stat. § 160D-107 because it has made substantial expenditures of over \$11 million in good faith reliance on prior development approvals; 4) Eco TIP has a pending site plan application before the County for the Data Center Project and is, thus, protected by the permit choice statutes; and 5) enacting the Moratorium to allow data centers to be removed as a use permitted by right use is a down-zoning in violation of N.C. Gen. Stat. § 160D-601.

80. Bradshaw told the Board:

I'm sharing these thoughts with you before you adopt a moratorium, in an effort to be transparent about my client's intentions with regard to its property and the development project about which it has already invested very substantial expenditures, so that you can take that into account as you deliberate over whether a moratorium is the appropriate policy for Chatham County, and whether it will have the effects for which its proponents hope.

81. Michael Smith, the President of the Chatham County EDC also spoke against the data center moratorium. Smith emphasized that data centers are, and should only be allowed in heavy industrial districts, which is already the case in Chatham County. There is no risk that data centers will locate near residential subdivisions because it is already not allowed. Smith explained that the current Chatham County tax base is 90% residential and there is a need for more commercial and industrial uses in the County. A new data center would bring a \$2 billion investment to the County which translates to \$12 million in additional tax revenue.

82. Mark Ashness from LJA Engineering also spoke against the Moratorium. He is also the former Chatham County Public Works Director. Ashness has been working with Eco TIP on the Data Center Project "since the inception." Ashness told the County Board that the County had issued the Zoning Permit, and that Eco TIP had already met with County Inspections and the Fire Marshall and had made a pre-submittal based on the County's comments. Ashness stated that water use for the Data Center would be *lower* than the prior usage of water on the same parcels.

83. There were three speakers at the public hearing that were neither for or against the Moratorium but provided relevant information for the Board to consider.

84. John Geib is the founder of the Kilowatt Cooperative, which is an electric utility consultant, and Geib spoke to bring "balance and inclusiveness to the conversation." Geib noted that Duke and other utility providers are formulating rules to minimize the impact of data centers

and that data centers do bring benefits to the communities where they locate. Geib suggested a “thoughtful data driven approach,” which is more productive than “rushing forward or closing the door entirely.”

85. Sarah Stevens is the District Manager for Duke Energy in Chatham County. Stevens explained that Duke works with local governments to provide the energy needed for industries to support economic growth. Stevens stated she wanted to “myth bust” ideas about data centers. Stevens told the County Board that data centers are required to pay the full cost for delivering service to their sites; residential customers do not pay. In fact, data centers and other large load customers lower costs for other customers by spreading fixed service expenses across a broader customer base. Data centers do not get discounted energy bills.

86. Kyle Shipp is a construction professional who has been involved in large data center infrastructure for 15 years. Shipp told the Board that each data center is different, so it is difficult to regulate them through zoning. Shipp stated he understood the moratorium would likely pass but encouraged it to be short because it creates uncertainty that could discourage businesses from locating in Chatham County.

87. The primary concerns for the Moratorium proponents were a data center’s use of water and electricity, potential environmental impacts and noise. The proponents of the Moratorium did not address the Data Center Project, nor provide any reason why it should not be allowed to proceed at the Data Center Property.

88. The public hearing was closed after the last speaker. The Chair then immediately called for a motion to adopt:

[A]n ordinance instituting a temporary moratorium on the permitting of data centers, data processing facilities, cryptocurrency mining operations and any use associated with data processing facilities within Chatham County for up to one year.

88. The motion to adopt the Moratorium against “permitting” was seconded and approved unanimously. Despite the number of speakers who addressed the Board at length about the Data Center Project, the Commissioners did not engage in any discussion whatsoever nor did they acknowledge or discuss Eco TIP’s exemption request or ask the County Attorney to address it. They likewise made no mention of and did not analyze the Moratorium in light of the Comprehensive Plan, Plan Moncure, or the Moncure Megasite.

C. The Adopted Moratorium Ordinance.

89. A County’s decision to pause permitted development is an extreme measure which requires adherence to specific statutory requirements, including but not limited to those set forth in N.C. Gen. Stat. § 160D-107. In its haste to approve the Moratorium at breakneck speed, the County made multiple mistakes and failed to follow the clear and unambiguous standards and requirements. Among other things, the four “Required Statements” that must be included under N.C. Gen. Stat. § 160D-107(d) were incomplete and lacked the facts and data required to comply with the statute.

90. Section 1 of the Moratorium Ordinance is the paragraph which purports to affirmatively enact the Moratorium. It expressly states that the Moratorium “is hereby imposed” on the “approval of new *zoning regulation* [sic]....” (emphasis added). *See Exhibit J.* N.C. Gen. Stat. §160D-107(a) only allows the County to adopt temporary moratoria on “*development approvals.*” The Moratorium, therefore, violates the statute and is void for that reason.

91. The title of the Moratorium states that it is a “Moratorium on the *Permitting* of Data Centers” and related uses. (emphasis added). The title does not control the substance of the Ordinance but demonstrates that the County again used the wrong statutory terminology to effectuate a moratorium under N.C. Gen. Stat. § 160D-107. This is not only illegal, but negligent.

92. Section 2 states the Moratorium is “on the *use* of the property for data centers and related uses.” (emphasis added). There is no statutory authority to place a moratorium on the “use” of property. This is yet another careless error and inconsistency in the Moratorium.

93. The last sentence of Section 2 of the Moratorium states that “[a]ll development approvals are subject to the Moratorium.” This is correct language, but it cannot operate to undo the multiple other errors in the ordinance, nor remedy the fact that Section 1 imposes a moratorium on “new zoning regulation[s].” Well-established North Carolina law provides that if a land use regulation is ambiguous, *i.e.*, susceptible to more than one meaning, it must be construed in favor of the free use of property. *Schooldev E., LLC v. Town of Wake Forest*, 386 N.C. 775, 776, 909 S.E.2d 181, 184 (2024) (explaining the “free use of land” canon of construction). Attempting to impose a moratorium on 1) “development regulations;” 2) “permitting;” 3) the “use” of property and 4) “development approvals” in a single ordinance is the very definition of ambiguous.

94. The North Carolina Supreme Court recently warned that local governments do *not* have the authority to ignore the free use of land canon of construction because “[i]t reflects our state’s longstanding policy to protect property rights under the constitution.” *Schooldev E., LLC* at 789, 386 S.E.2d at 192. The Moratorium is, thus, void for this reason as well.

95. N.C. Gen. Stat. § 160D-107(d)(1) requires the Moratorium to set forth a statement of the problems or conditions that necessitated the Moratorium and what other courses of action were considered and why they were not deemed adequate. In a weak effort to make this finding, Section 1 of the Moratorium states only that: “The County has looked at alternative solutions to a moratorium but have found none.”

96. This Section 1 statement adopted by the County fails to comply with N.C. Gen. Stat. § 160D-107(d)(1) because *no* alternatives are listed, much less an explanation as to why they

were inadequate. This omission is also faulty because there are multiple less draconian, more reasonable and quicker solutions. These options were presented to the County by Eco TIP and others; however, these alternative solutions were patently ignored by the Board of Commissioners.

97. Section 2 of the Moratorium states the problems or conditions necessitating the Moratorium are that “data processing facilities require considerable amounts of electricity and water usage.” The County states it is in the process of developing “zoning standards and mitigation methods” purportedly to mitigate the use of what Hunter Glenn characterized as “lots” of water and power. The County does not, however, have jurisdiction to regulate water or electricity, so this “problem or condition” cannot justify the Moratorium.

98. There is no authority to pause development approvals by enacting a moratorium to allow the County time to draft and pass an illegal ordinance. New zoning regulations governing water and electricity and the amount and methods to provide those utilities to data centers is not legal under N.C. Gen. Stat. Chapter 160D and other applicable statutes. This is yet another reason the Moratorium is void.

99. Section 2, Section 3 and Section 4 also state the Moratorium’s purpose is to allow the County time to consider and adopt new regulations that will remove data centers and related uses as a use by right. The County plans to add more regulations to the UDO, which will prohibit data centers in some circumstances. Land use regulations which would achieve the County’s desired effect would be a prohibited down-zoning under N.C. Gen Stat. § 160D-601. It is not lawful to pass a moratorium to gain additional time to draft and enact an ordinance that would be in direct violation of Chapter 160D.

100. A quote by County Board Chair Amanda Robertson on the County’s website in an article dated February 12, 2026, confirmed the Board’s intent in enacting the Moratorium was to

allow time to enact regulations to “guide where and how” data centers can operate in Chatham County “in the future.” See <https://www.chathamcountync.gov/our-community/news-updates/arch-1/-seldept-9>.

IV. Eco TIP’s Post Public Hearing Written Request for an Exemption Under N.C. Gen. Stat. §160D-107(c).

101. On March 2, 2026, Eco TIP renewed its request that its exemption to the Moratorium be recognized by the County by a letter from Eco TIP attorney Patrick Bradshaw to the new County Attorney Emily Meeker. **See Exhibit K.** The letter sets forth the specific facts supporting the exemption request, including a list of development approvals and permits which had been issued for the Data Center project by the County and the State of North Carolina. The letter also provided detailed documentation of the over \$11 million spent in reliance on those approvals and permits.

102. The County Attorney did not submit the Exemption Request to the Board of Commissioners for review, but instead apparently gave the request to “the Planning Department.”

103. On March 17, 2026, the County Attorney responded as follows:

The Planning Department has carefully reviewed the letter from Patrick Bradshaw, along with all of its attachments. The Planning Department has determined that Eco TIP West LLC’s proposed project is not exempt from the County’s moratorium on data centers, data processing facilities, and cryptocurrency mining operations.

See Exhibit L.

104. The “Planning Department” is not a legally recognized entity and has no authority or jurisdiction to make exemption decisions, or any other determinations under N.C. Gen Stat. § 160D-107(b).

105. Accordingly, the County has not yet made any decision on Eco TIP's exemption request under Section 160D-107(c). Eco TIP is entitled to obtain a decision on its exemption by an expedited hearing under N.C. Gen. Stat. § 160D-10(f), which it seeks by this civil action.

V. The Refusal to Process Eco TIP's Site Plan Application.

106. As a part of the Data Center development review process, Eco TIP was instructed by the County Planning staff to submit its Site Plan to the Chatham County Appearance Commission (the "CCAC") for review. The County informed Eco TIP that this was a required development permit for the Data Center Project.

107. Eco TIP submitted a complete application to the CCAC on February 11, 2026 at 3:09 p.m. requesting site plan review and CCAC approval. This was prior to the adoption of the Moratorium later that same day. **See Exhibit M.**

108. The County Zoning Ordinance does not require site plans to be reviewed by the Appearance Commission, so it is unclear why Eco TIP was told to take this step. The Appearance Commission could not require changes to the Site Plan or deny the application. Eco TIP nonetheless complied and, thus, the CCAC site plan application constituted "a permit application" for development" under N.C. Gen. Stat. § 143-755 entitled "Permit Choice."

109. The Site Plan application was scheduled to be heard by the CCAC on February 26, 2026.

110. Angela Plummer, County Zoning Administrator/Planner II sent Eco TIP an *ad hoc* and unsolicited email on February 18, 2026 stating that the Data Center Project would be removed from Appearance Commission agenda the following week because the Data Center Project was subject to the Moratorium. **See Exhibit N.** Plummer did not have authority to decide Eco TIP's rights under N.C. Gen. Stat. § 160D-107(d), so this decision is meaningless and without binding

effect. *See, e.g.*, N.C. Gen. Stat. § 160D-402(b). Eco TIP has appealed the email to the County Board of Adjustment in an abundance of caution; however, the Moratorium exemption question is now before the Superior Court which has exclusive subject matter exclusive jurisdiction per N.C. Gen. Stat § 160D-107(f).

VI. Eco TIP's Approvals and Substantial Expenditures.

111. In good-faith reliance on the Heavy Industrial zoning designation, the Zoning Permit, and valid development approvals from Chatham County and other government entities, Eco TIP has expended millions of dollars over a period of years to develop the site for data processing, hosting and related services. Under N.C. Gen. Stat. § 160D-107(c), “development for which substantial expenditures have already been made in good-faith reliance on a prior valid development approval” is exempt from a moratorium. Therefore, the Data Center Project is exempt from the Moratorium as a matter of law.

112. In addition to the Zoning Permit issued by the County in October 2025 which confirms that the Data Center Property can be developed as a data center “by right,” an illustrative but not exhaustive list of prior valid developments approvals and/or development permits by Chatham County for the Data Center Project include the following:

- (1) January 10, 2022, Letter of Approval signed by the Chatham County Watershed Protection Department for WP-21-367 involving development grading work related to the demolition process on the Data Center Project at TIP West. Demolition work is included in the definition of the term “Development” pursuant to N.C. Gen. Stat. § 160D-102(12).
- (2) February 16, 2022, Land-Disturbing Permit for WP-21-367 corresponding to the above Letter of Approval. This permit authorized commencement of land-disturbing activity on the Data Center Project as part of the major demolition development activity.
- (3) January 9, 2023, Letter of Approval signed by the Chatham County Watershed Protection Department for WP-22-652 involving development

grading for installation of infrastructure necessary for the Data Center Project.

- (4) February 6, 2023, Land-Disturbing Permit for WP-22-652 corresponding to the above Letter of Approval. This permit authorized commencement of land-disturbing activity on the Data Center Project as part of the installation of infrastructure necessary for the Data Center Project.
- (5) March 31, 2022, Letter of Approval signed by the Chatham County Watershed Protection Department for WP-22-30 involving construction of utility infrastructure on or for the Data Center Project.
- (6) April 18, 2022, Land-Disturbing Permit for WP-22-30 corresponding to the above Letter of Approval. This permit authorized commencement of land-disturbing activity on the Data Center Project as part of the installation of utility infrastructure necessary for the Data Center Project.
- (7) March 17, 2022, Stormwater Permit for SCM-21-16 signed by the Chatham County Watershed Administrator approving construction of stormwater detention facilities within the Data Center Project.
- (8) February 16, 2023, Chatham County Building Permit for BP-23-429 authorizing demolition of existing structures and removal of existing slabs, footings and roads within the Data Center Project area.
- (9) March 22, 2023, Chatham County Building Permit for BP-23-905 approving construction of retaining wall/sound wall for the Data Center Project.
- (10) February 3, 2023, Floodplain Development Permit for WP-23-9 signed by the Chatham County Watershed Protection Director authorizing demolition of existing industrial plant and infrastructure, wastewater treatment plant closure, Duke Energy station decommissioning and redistribution of crushed material to close ponds and unsuitable soils.
- (11) April 11, 2023, Sign Permit for Zoning Compliance for PL-23-684 signed by Zoning Administrator authorizing construction of signage within the Data Center Project.
- (12) November 8, 2022, Sewer Extension Application Approval by City of Sanford FT-348 for extension of sewer to the data Center Project.
- (13) August 4, 2022, Application for Approval of Engineering Plans and Specifications for Water Supply Systems for connection of the Data Center Project to the public water system, signed off by the County Manager.

See Exhibit K.

113. Furthermore, an illustrative but not exhaustive list of prior valid development permits and/or development approvals by North Carolina State government agencies for the Data Center Project include the following:

- (1) October 31, 2022, NCDWR Approval for 22-0756 Water Main Extension to the Data Center Project.
- (2) June 29, 2023, NCDWR Final Approval of Water Main Extension 22-0756 for the Data Center Project.
- (3) August 10, 2022, NCDOT Encroachment Agreement for E081-019-22-00232 approving installation of Water Main extension lines for the Data Center Project, with the County as a party and signatory to the encroachment agreement.
- (4) February 14, 2023, NCDOT Encroachment Agreement for E081-019-23-00019 approving road widening, pavement markings and turn lanes for the Data Center Project.
- (5) February 14, 2023, NCDOT Chatham County Driveway Permit for D081-019-23-00008 authorizing construction of driveway for the data Center Project, approved by the County Planning Director.
- (6) January 18, 2023, NCDEQ Stormwater Discharge Permit for Grading on the Data Center Project site.
- (7) February 3, 2023, NCDHHS Demolition Permit/Notification for the Data Center Project.
- (8) December 9, 2022, NCDWR Permit WQ0043389 for wastewater collection system extension to the Data Center Project.

See Exhibit K.

114. Eco TIP has incurred substantial expenditures in excess of \$11 million for work and materials on the Data Center Project in good faith reliance on valid prior development approvals and/or development permits.

115. Invoices showing expenditures of \$11,313,768 are attached as **Exhibit O**; however, those amounts are not intended to reflect all of the eligible good-faith expenditures incurred by Eco TIP in furtherance of the development of the Data Center Project.

116. The substantial expenditures incurred by Eco TIP would not have been undertaken but for Eco TIP's reasonable reliance on its prior valid development approvals and/or development permits; they serve as the basis for both common law and statutory vested rights. *See, e.g.* N.C. Gen. Stat. § 160D-108, § 143-755.

117. Eco TIP's work expenditures in furtherance of the Data Center Project all fall within the statutory definition of "development" under N.C. Gen. Stat. § 160D-102(12). The definition of "development" includes "construction" and "demolition of any structure," and the "excavation, grading, filling, clearing or alteration of land" All of these activities are included in and approved by the above-described development approvals and were paid for by Eco TIP. The development approvals and/or development permits also fall within those protected pursuant to N.C. Gen. Stat. § 160D-108 and § 143-755 and the common law vested rights doctrine.

VII. Eco TIP's Vested Rights.

118. Eco TIP began development of the Data Center Project in 2022. As set forth and described above, the Data Center Project has received multiple County and State development approvals and development permits.

119. Plaintiff made substantial expenditures in excess of \$11 million in good faith and reasonable reliance on the valid development approvals and/or development permits as set forth above.

120. Work in furtherance of the Data Center Project has substantially commenced and Eco TIP has statutory and common law vested rights.

121. After the substantial commencement of work on the Data Center Project, Eco TIP has continuously intended to complete development and never intentionally and voluntarily discontinued development work for a period of 24 consecutive months, or in fact, for any period of time.

121. Eco TIP's vested rights run with the land and apply to any subsequent owners.

122. A party with vested rights may bring an original civil action under N.C. Gen. Stat. § 160D-1403.1 to seek declaratory relief, injunctive relief, damages, or any other remedies provided by law or equity. *See* N.C. Gen. Stat. § 160D-108(h).

FIRST CLAIM FOR RELIEF

(The Moratorium is Void and Invalid for Failure to Comply with N.C. Gen. Stat. § 160D-107)

123. Eco TIP realleges and incorporates by reference the allegations stated in the preceding numbered paragraphs.

124. The County's authority to adopt a moratorium is governed by N.C. Gen. Stat. § 160D-107 entitled "Moratoria," which provides, in relevant part, as follows:

(a) Authority. - As provided in this section, local governments may adopt temporary moratoria on any development approval required by law The duration of any moratorium shall be reasonable in light of the specific conditions that warrant imposition of the moratorium and may not exceed the period of time necessary to correct, modify, or resolve such conditions.

125. N.C. Gen. Stat. § 160D-107(f) provides that "the local government has the burden of showing compliance with the procedural requirements of this subsection."

126. N.C. Gen. Stat. § 160D-107(d) sets forth the four required statements that must be adopted by the County Board to justify the Moratorium.

127. N.C. Gen. Stat § 160D-107(a) states: “As provided in this section, local governments may adopt temporary moratoria on any *development approval* required by law.” (emphasis added).

128. “Development approvals” are defined at N.C. Gen. Stat. § 160D-102(13) as:

An *administrative or quasi-judicial* approval made pursuant to this Chapter that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to this Chapter, including plat approvals, permits issued, development agreements entered into, and building permits issued.

(emphasis added).

129. By its own terms, the Moratorium provides in Section 1:

A temporary moratorium is hereby imposed commencing on February 11th, 2026, and expiring no later than February 11th, 2027, *or on approval of new zoning regulation[s]* regarding data centers, data processing facilities, cryptocurrency mining operations, and uses associated with data processing facilities not yet defined in the Chatham County Zoning Ordinance.

(emphasis added).

130. Zoning regulations are not the same as development approvals and are defined at N.C. Gen. Stat. § 160D-102(14) as:

A unified development ordinance, *zoning regulation*, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, North Carolina State Building Code enforcement, or any other regulation adopted pursuant to this Chapter, or a local act or charter that regulates land use or development.

(emphasis added).

131. Development regulations include ordinances and legislative enactments like the County Zoning Ordinance; they do not include permits or development approvals. There is no

authority to place a moratorium on “new zoning regulations,” which is what the Moratorium purports to do. The Moratorium does not properly prohibit “development approvals” which are the only actions allowed to be put on hold by N.C. Gen. Stat. § 160D-107.

132. The Moratorium also refers to a moratorium on “permits,” “permitting” and “uses” which are likewise not authorized by N.C. Gen. Stat. § 160D-107. “Permit” and “uses” are not a defined term under N.C. Gen. Stat. Chapter 160D.

133. The Moratorium does reference “development approvals” in Section 2, but that does not correct the erroneous enabling clause in Section 1 or the other multiple confusing provisions. At best, this creates an ambiguity and causes internal inconsistencies within the terms of the Moratorium. This requires the Moratorium be declared void under, *inter alia*, the free use of land canon of construction.

134. The County’s required statements were also inadequate and failed to comply within N.C. Gen. Stat. § 160D-107(d).

135. *Inter alia*, the Moratorium’s finding in Section 1 fails to comply with N.C. Gen. Stat. § 160D-107(d)(1) because it proposes a moratorium to allow time to enact development regulations that are beyond its authority, including those governing water and electricity.

136. The Moratorium’s findings in Section 1 fail to comply with N.C. Gen. Stat. § 160D-107(d)(1) because they fail to state what alternatives were considered other than a moratorium, “and why those alternative courses of action were not deemed adequate.”

137. Section § 160D-107(a) of the Moratorium statute provides: “The duration of any moratorium shall be reasonable in light of the specific conditions that warrant imposition of the moratorium and may not exceed the period of time necessary to correct, modify, or resolve such conditions.”

138. The Moratorium’s finding in Section 3 fail to comply with N.C. Gen. Stat. § 160D-107(a), (d)(3) and (d)(4) because it does not provide any factual justification for pausing review of all data centers for twelve months. This is too long for multiple reasons including that there is no reasonable basis to allocate six to eight months for the legislative text amendment process when it can be accomplished in 90 days or less.

SECOND CLAIM FOR RELIEF

(Declaratory Judgment that the Moratorium is Void Because it Violates N.C. Gen. Stat. § 160D-601(d) Which Prohibits Down-Zoning Without the Consent of the Property Owner)

139. Plaintiffs reallege and incorporate by reference the allegations stated in the preceding numbered paragraph.

140. N.C. Gen. Stat. § 160D-601(d), is entitled “Down-zoning” and provides as follows:

No amendment to zoning regulations or a zoning map that down-zones property shall be initiated, enacted, or enforced without the written consent of all property owners whose property is the subject of the down-zoning amendment. For purposes of this section, “down-zoning” means a zoning ordinance that affects an area of land in one of the following ways:

- (1) By decreasing the development density of the land to be less dense than was allowed under its previous usage.
- (2) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.
- (3) By creating any type of nonconformity on land not in a residential zoning district, including a nonconforming use, nonconforming lot, nonconforming structure, nonconforming improvement, or nonconforming site element.

141. The Moratorium constitutes illegal down-zoning because, *inter alia*, N.C. Gen. Stat. § 160D-601(d) does not allow the County to “initiate” the downzoning of data centers. “Initiate” means to “set a process in motion” or to “cause or facilitate the beginning of.” *See, e.g.,* Miriam-webster.com/dictionary. The plain language of the Moratorium unequivocally states that

it is setting in motion a process to reduce the uses of land permitted by right by at least one use, *i.e.*, data centers in the Heavy Industrial district. This violates N.C. Gen. Stat. § 160D-601(d).

142. Section 1 of the Moratorium states that the County Planning Department is in the process of developing zoning standards and mitigation methods for data centers and related uses, and the County “seeks time to develop such standards.” Section 2 provides that the Moratorium is for twelve months or “such time that specific land use standards can be developed.” The standards will result in a down-zoning of the data center use, which was clearly “initiated” by the Moratorium.

143. At the time the Moratorium was passed, the Data Center Project was a by-right use on the Data Center Property. By its own terms, the Moratorium indicates the delay imposed is to allow the County to add additional regulations for data centers, so the Data Center Project will lose its by-right status. This type of zoning regulation is illegal and prohibited by N.C. Gen. Stat. § 160D-601(d).

144. Moratoria are only permitted to allow the County to consider and impose *lawful* new zoning regulations. A moratorium to allow the County to consider and enact regulations which violate N.C. Gen. Stat. § 160D-601 are not authorized by N.C. Gen. Stat. § 160D-107 or otherwise. The Moratorium is void for this reason.

THIRD CLAIM FOR RELIEF
(Declaratory Judgment pursuant to N.C.G.S. § 160D-108 and § 160D-1403.1 – Statutory Vested Rights)

145. Plaintiff realleges and incorporates by reference the allegations stated in the preceding numbered paragraphs.

146. N.C. Gen. Stat. § 160D-108(c) is entitled “Vested Rights” and provides: “Amendments in land development regulations are not applicable or enforceable without the written consent of the owner with regard to any of the following:

(1) Buildings or uses of buildings or land for which a development permit application has been submitted and subsequently issued in accordance with G.S. 143-755.

147. N.C. Gen. Stat. § 143-755(e)(2) defines “development permit” as

“[a]n administrative or quasi-judicial approval that is written and that is required prior to commencing development or undertaking a specific activity, project or development proposal, including any of the following:

- a. Zoning permits.
- b. Site plan approvals.
-
- h. Building permits.
-
- j. State agency permits for development.
- k. Driveway permits.
- l. Erosion and sedimentary control permits.

148. N.C. Gen. Stat. § 143-755(e)(1) defines “Development” as follows:

- a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- b. Excavation, grading, filling, clearing, or alteration of land.
- c. The subdivision of land as defined in G.S. 160D-802.
- d. The initiation of substantial change in the use of land or the intensity of the use of land.

149. Eco TIP is entitled to seek to establish its statutory vested rights by this direct civil action pursuant to N.C. Gen. Stat. § 160D-108(h). There is no requirement to seek a determination from the County before filing this Complaint under N.C. Gen. Stat. § 160D-1403.1.

150. The Zoning Permit and the other development approvals described *supra* are valid development permits as that term is defined in N.C. Gen. Stat. § 160D-108 and § 143-755(e)(2).

151. The Zoning Permit and Addendum were final and determinative no later than October 30, 2025. The Zoning Permit immediately conferred statutory vested rights on Eco TIP pursuant to N.C. Gen. Stat. § 160D-108. No additional actions or expenditures were required to create vested rights based on the Zoning Permit. Thus, the Moratorium or any regulations adopted while it is in effect cannot stop the continued development of the Data Center Project.

152. Eco TIP also has statutory vested rights in the other development approvals and/or development permits described in Attorney Patrick Bradshaw's letter to County Attorney Emily Meeker dated March 2, 2026 and has set forth in the preceding paragraphs. These include, but are not limited to, the following for the Data Center Project:

- a. Demolition permits;
- b. Land disturbing permits;
- c. Building permits; and
- d. State agency permits for development.

153. Work in reliance on these development approvals and/or development permits has substantially commenced, and in some instances is complete. Eco TIP has made substantial expenditures in good faith reliance on those development approvals.

154. At no time since the original approvals has Eco TIP intentionally or voluntarily discontinued work on the Data Center Project for more than 24 months. At all times relevant to this complaint, Eco TIP has intended to complete the Data Center Project in accordance with its approvals and/or permits.

155. Accordingly, Eco TIP requests a declaratory judgment that Eco TIP has statutory vested rights in the Data Center Project pursuant to N.C. Gen. Stat. § 160D-108 and § 160D-1403.1

and is authorized to complete development free from the application of the Moratorium or further unlawful interference by the County.

FOURTH CLAIM FOR RELIEF

(Declaratory Judgment – Common Law Vested Rights: N.C. Gen Stat. § 160D-1403.1)

156. Eco TIP realleges and incorporates by reference the allegations stated in the preceding numbered paragraphs.

157. Eco TIP has valid development approvals and/or permits that allow construction and use in accordance with their terms.

158. Eco TIP's expenditures of money, time, labor and energy to develop the Data Center Project have been ongoing for at least four years and were made in reasonable and good faith reliance on prior valid development approvals and development permits.

159. Eco TIP has incurred substantial expenditures in reasonable reliance on its permits and approvals to develop the Data Center Project.

160. Eco TIP has acquired constitutionally protected property rights in the Data Center Project, and has common law vested rights and, therefore, is entitled to a judgment declaring the same.

161. If Eco TIP had known that the County would attempt to take its property rights in the Data Center Project, it would not have expended the money, time, energy, or resources on the Data Center Project.

162. If Eco TIP is not allowed to develop the Data Center Project, Eco TIP will suffer significant financial harm and prejudice.

163. For the reasons set forth above, this Court should enter a declaratory judgment stating that Eco TIP has common law vested rights to develop and operate the Data Center Project

as a by-right use free from the Moratorium and any other subsequent ordinances or limitations, which would prevent Eco TIP from developing and operating the Data Center Project.

FIFTH CLAIM FOR RELIEF
(Exemption from the Moratorium – N.C. Gen. Stat. § 160D-107(c))

164. Plaintiff realleges and incorporates by reference the allegations stated in the preceding numbered paragraphs.

165. N.C. Gen. Stat. § 160D-107(c) is entitled “Exempt Projects” and states:

Absent an imminent threat to public health or safety, a development moratorium adopted pursuant to this section does not apply to any project for which a valid building permit issued pursuant to G.S. 160D-1108 is outstanding . . . [or] to development for which substantial expenditures have already been made in good-faith reliance on a prior valid development approval . . . Notwithstanding the foregoing, if a complete application for a development approval has been submitted prior to the effective date of a moratorium, G.S. 160D-108(b) applies when permit processing resumes.

166. Eco TIP has made substantial expenditures and taken other significant steps toward development of the Data Center Project based on multiple prior development approvals and permit approvals for at least four years. Prior to the enactment of the Moratorium on February 11, 2026, Eco TIP invested over \$11 million in the Data Center Project in good faith reliance on these development approvals and other permits issued by the County and the State, which are described in detail *supra*.

167. On March 2, 2026, Eco TIP attorney Patrick Bradshaw submitted a letter to the County setting forth the specific facts supporting the exemption request, including a list of development approvals and permits which had been issued for the Data Center Project by the County and the State of North Carolina. The letter also provided detailed documentation of the over \$11 million spent in reliance on those approvals.

168. Eco TIP has also continued to make substantial expenditures in reasonable reliance on the Zoning Permit since it was issued in October 2025.

169. Based on the foregoing, Eco TIP is entitled to a decision and/or declaration that the Data Center Project is exempt from the Moratorium. Eco TIP also requests an expedited hearing under N.C. Gen. Stat. § 160D-107(f).

SIXTH CLAIM FOR RELIEF
(Recovery Under 42 U.S.C. § 1983 for Violation of Eco TIP's Substantive Due Process Rights under the United States Constitution and the North Carolina Constitution Law of the Land Clause)

170. Eco TIP realleges and incorporates by reference the allegations stated in the preceding numbered paragraphs.

171. To the extent required by law, Eco TIP has exhausted all administrative remedies necessary to bring this claim and/or such exhaustion would have been futile.

172. Eco TIP has constitutionally protected property rights in, *inter alia*, its statutory and common law vested rights in the Data Center Project, including its right to develop in accordance with the Zoning Permit and other development approvals and permits under N.C. Gen. Stat. § 160D-108 and § 143-755. These vested rights are described and alleged in detail, *supra*.

173. The County has arbitrary and capriciously interfered with and/or deprived Eco TIP of its property rights in violation of its constitutional rights. These unlawful actions include, among other things: 1) planning the Moratorium in concert with data center opponents and purposefully excluding Eco TIP for the purpose of stopping the Data Center Project and interfering with Eco TIP's protected property rights; 2) initiating the Moratorium and asserting there were no pending data center projects when the County Manager, County Attorney and County Planning Director were aware of the Data Center Project and Eco TIP's property rights; 3) enacting the Moratorium

in blatant disregard of Eco TIP's Zoning Permit and other development approvals and development permits; 4) enacting the Moratorium for the purpose of down-zoning Eco TIP's property; 5) enacting the Moratorium in a hurried manner which resulted in numerous mistakes and statutory violations; 6) failing to recognize Eco TIP's exemption from the Moratorium and in fact, failing to give the request any meaningful consideration; and 7) enacting the Moratorium to stop the Data Center Project at a location zoned Heavy Industrial and intended for intense industrial uses, and with adequate and available utilities.

174. Upon information and belief, the County's actions described herein were intentional, arbitrary, and capricious and were specifically directed at Eco TIP and were undertaken for unlawful and improper motives, including but not limited to the County's plan to prohibit the completion of the Data Center Project in accordance with its lawful approvals.

175. The County undertook a course of conduct unrelated to whether the Data Center Property was an appropriate location for the Data Center Project and purposefully failed and refused to address the exemption of the Data Center Project, Eco TIP's vested rights, and other constitutionally protected property rights for arbitrary, capricious and unlawful purposes.

176. The delay and other consequences of the Moratorium have interfered with Eco TIP's significant investment in the Data Center Project. This has and will continue to cause unprecedented financial losses to Eco TIP.

177. Accordingly, Eco TIP requests that the Court enter a declaratory judgment holding that the County's actions described herein violated the Due Process Clause of the United States Constitution, 42 U.S.C. § 1983, and the Law of Land Clause of the North Carolina Constitution. In addition, Eco TIP requests that it recover all of the monetary damages suffered

as a result of the violation of its Due Process rights and proximately caused by the County's actions, which are in excess of \$25,000.

SEVENTH CLAIM FOR RELIEF
(Declaratory Judgment - Permit Choice
N.C. Gen. Stat. § 160D-108(b) and § 143-755)

178. Plaintiff realleges and incorporates by reference the allegations stated in the preceding numbered paragraphs.

179. N.C. Gen. Stat. § 160D-108(b) states: "If a land development regulation is amended between the time a development permit application was submitted and a development permit decision is made . . . G.S. 143-755 applies."

180. N.C. Gen Stat. § 143-755(a) states:

If a development permit applicant submits a permit application for any type of development and a rule or ordinance is amended, including an amendment to any applicable land development regulation, between the time the development permit application was submitted and a development permit decision is made, the development permit applicant may choose which adopted version of the rule or ordinance will apply to the permit and use of the building, structure, or land indicated on the permit application. *If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development shall not be required to await the outcome of the amendment...prior to acting on the development permit.* If an applicable rule or ordinance is amended after the development permit is wrongfully denied or after an illegal condition is imposed, as determined in a proceeding challenging the permit denial or the condition imposed, the development permit applicant may choose which adopted version of the rule or ordinance will apply to the permit and use of the building, structure, or land indicated on the permit application.

(emphasis added)

181. N.C. Gen. Stat. § 143-755(b) states: "This section applies to all development permits issued by the State and by local governments."

182. N.C. Gen. Stat. § 160D-107(c) states: “Notwithstanding the foregoing, if a complete application for a development approval has been submitted prior to the date of a moratorium, G.S. 160D-108(b) applies when permit processing resumes.”

183. N.C. Gen. Stat. § 143-755, however, expressly states Eco TIP can choose its preferred version now and does not have to wait for a change in the Zoning Ordinance that limits or prohibit the use. Otherwise, the Permit Choice statute would be meaningless.

184. N.C. Gen. Stat. § 143-755(d) states:

Any person aggrieved by the failure of a State agency or local government to comply with this section or G.S. 160D-108(b) may apply to the appropriate division of the General Court of Justice for an order compelling compliance by the offending agency or local government, and the court may issue that order. Action brought pursuant to any of these sections shall be set down for immediate hearing, and subsequent proceedings in those actions shall be set down for immediate hearing, and subsequent proceedings in those actions shall be accorded priority by the trial and appellate courts.

185. Eco TIP is a development permit applicant who submitted a development permit application under N.C. Gen. Stat. § 143-755; specifically, at the County’s direction, it submitted the site plan application for the Data Center Project to the Appearance Commission. This was after the Zoning Permit was issued and there had been a binding and unappealed determination that the Data Center Project was a use permitted by right.

186. Eco TIP has met all statutory requirements for Permit Choice and is entitled to continue the permitting process and development under the Zoning Ordinance in effect prior to the enactment of the Moratorium on February 11, 2026. The County has unlawfully, purposefully and knowingly refused to allow Eco TIP to continue to pursue its site plan in violation of N.C. Gen. Stat. §160D-108(b) and § 143-755.

187. Based on the foregoing, Plaintiffs are entitled to: a) a declaratory judgment finding the County violated N.C. Gen. Stat. § 160D-108(b) and § 143-755; b) a declaratory judgment holding the County must continue process the Site Plan for the Data Center Project under law in effect before the approval of the Moratorium. Eco TIP also requests an immediate hearing pursuant to N.C. Gen. Stat. § 143-755(d).

EIGHTH CLAIM FOR RELIEF
(Attorney's Fees and Costs – N.C. Gen. Stat. § 6.21.7)

188. Plaintiff realleges and incorporates by reference the allegations stated in the preceding numbered paragraphs.

189. N.C. Gen. Stat. § 6-21.7 is entitled “Attorney Fees; cities or counties acting outside the scope of their authority.” It provides:

In any action in which a city or county is a party, upon a finding by the court that the city or county violated a statute or case law setting forth unambiguous limits on its authority, the court shall award reasonable attorneys' fees and costs to the party who successfully challenged the city's or county's action. In any action in which a city or county is a party, upon finding by the court that the city or county took action inconsistent with, or in violation of, G.S. 160D-108(b) or G.S. 143-755, the court shall award reasonable attorneys' fees and costs to the party who successfully challenged the local government's failure to comply with any of those provisions. In all other matters, the court may award reasonable attorneys' fees and costs to the prevailing private litigant. For purposes of this section, "unambiguous" means that the limits of authority are not reasonably susceptible to multiple constructions.

190. As alleged above, the County's actions in enacting an illegal moratorium, down-zoning the Data Center Property; refusing to recognize Eco TIP's permit choice rights, failing to recognize Eco TIP's exemption or vested rights; and arbitrarily and capriciously interfering with its protected property rights, were in violation of well-established and well-known statutory procedures setting forth unambiguous limits on the County's authority. This includes but is not

limited to the County's decision to violate multiple unambiguous provisions of the Chapter 160D and controlling appellate precedent. The rules and law violated "are not reasonably susceptible to multiple constructions." *See* N.C. Gen. Stat. § 6-21.7.

191. Accordingly, Eco TIP requests that the Court make a finding that the County violated both state statutes and state case law that set forth unambiguous limits on the County's authority, thus entitling Plaintiff to an award of attorney's fees and costs pursuant to N.C. Gen. Stat. § 6-21.7. Eco TIP respectfully requests an Order requiring the County to pay its attorney's fees and costs pursuant to that provision.

192. Eco TIP further requests attorney's fees under N.C. Gen. Stat. § 6-21.7 as the prevailing litigant.

NINTH CLAIM FOR RELIEF
(Attorney's Fees and Costs – 42 U.S.C. § 1988)

193. Eco TIP realleges and incorporates by reference the allegations stated in the preceding numbered paragraphs.

194. Eco TIP is entitled to a judgment in its favor that the County violated its federal Constitutional rights, including but not limited to, its substantive Due Process rights under the Fourteenth Amendment.

195. Accordingly, Eco TIP requests it be awarded its reasonable attorney's fees pursuant to 42 U.S.C. § 1988.

WHEREFORE, Eco TIP prays that the Court:

1. Enter a declaratory judgement that the Moratorium is illegal and void;
2. Enter a declaratory judgement that Eco TIP has common law and statutory vested rights in the Data Center Project;

3. Enter a declaratory judgement that Eco TIP's Data Center Project is exempt from the Moratorium;
4. Enter a declaratory judgment that the County's actions arbitrarily and capriciously deprived Eco TIP of its protected property rights in violation of the Due Process Clause of the United States Constitution and the Law of the Land Clause of the North Carolina Constitution and also awarding damages in an amount in excess of \$25,000;
5. Enter a declaratory judgment that the Moratorium violated N.C. Gen. Stat § 160D-601(b) because it is an illegal down-zoning;
6. Enter a declaratory judgment that Eco TIP has permit choice rights in the Data Center Project under N.C. Gen. Stat. § 160D-108 and § 143-755;
7. Award compensatory damages to Eco TIP in an amount to be determined at trial;
8. Award Eco TIP its attorneys' fees and court costs incurred in this action plus interest pursuant to N.C. Gen. Stat. § 6-21.7, 42 U.S.C. § 1988, and other applicable law;
9. There be a trial by jury; and
10. Award such other and further relief as the Court deems just and proper.

Respectfully submitted on the 23rd day of April 2026.

**SMITH, ANDERSON, BLOUNT,
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L.L.P.**

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